



- New Public Seminar – Changes in Parenting Laws
- “Close Up” Edition
- Cultural Objection to DNA Testing

- Reconciliation After a Property Settlement
- Government to fund research into ICL's
- Date Claimer – Counsellors!

## NEW PUBLIC SEMINAR! CHANGES IN PARENTING LAWS

Recent amendments to the Family Law Act will change the way parenting matters are decided. These changes have widened the definition of "family violence" and altered how the Court considers the child's best interests.

Don't miss this opportunity to learn about these changes from Family Law Accredited Specialist, Michael Lynch. For only \$20, you will receive a one-hour information session, giving you a run-down of the changes and how they may affect you.

### "Alert – Changes in Parenting Laws"

- [South Brisbane](#): 6:00pm – 7:00pm – Tuesday, 24 July, Diana Plaza Hotel, 12 Annerley Road, Woolloongabba.
- [Red Hill](#): 6:00pm – 7:00pm – Wednesday, 25 July, Broncos Leagues Club, 98 Fulcher Road, Red Hill.

To register, call (07) 3221 4300 or email [law@mlynch.com.au](mailto:law@mlynch.com.au). Book now, seating is limited!

## “CLOSE-UP” EDITION

For a detailed outline of the new "family violence" amendments to the Family Law Act and how it will change how parenting arrangements are determined, see our latest close-up article – ["Alert – Changes in Parenting Laws"](#).

## CULTURAL OBJECTION TO DNA TESTING

A recent Court case has had to consider what to do when a party would not agree to participate in a DNA parentage test because of "cultural" reasons.

- The father commenced proceedings seeking time with the child. The mother claimed that he was not the child's father. The Court ordered the parties undertake DNA testing.
- The father did not comply with the Court Order for DNA testing, citing his cultural beliefs that when a man and woman marry, the man takes on full responsibility for the woman and any resulting children. He sought that the Court infer he was the father as, (1) he was married to the mother at the time of the birth of the child, (2) they were cohabitating at the time of conception, and (3) he was listed on the child's birth certificate.
- The mother sought that the "presumptions of parentage" (i.e. parenting being determined on the above factors, in the absence of a DNA test) be rebutted. She said she never believed the applicant to be the father of the child, she was in another relationship at the time of the child's conception and she was able to produce a letter from the father's doctor (written around the time the child was conceived) that the father had fertility problems.

- The Court was satisfied that the "presumption of parentage" that the father sought to rely on, was rebutted. The Court found that the letter from the Father's doctor clearly showed he was incapable of fathering a child.
- The Court declared that he was not the father of the child.

## WHAT HAPPENS WHEN THERE IS RECONCILIATION AFTER A PROPERTY SETTLEMENT?

If a separated couple have a property settlement and later reconcile will the orders that they entered into still apply?

The Family Law Act provides that if all parties consent to either vary or set aside a Consent Order and if the Court considers it appropriate, then the Court can make a new order. This raises the question of implied consent.

A recent Court case considered whether the orders entered into by the parties still applied.

- The parties married in 1997 and separated in 2000. Following the separation they entered into a Consent Order for property settlement.
- 9 months after the separation, the couple reconciled and resumed cohabitation until final separation in 2005.
- When they reconciled in 2001 they intermingled their finances as they had done prior to their separation, but they did not purchase any joint assets.
- Following their final separation the Wife commenced proceedings for property settlement. The husband sought to rely on the Consent Order entered into by the parties in 2001, which provided

that each party retain all assets in their respective names,

- The Court was satisfied that the husband's conduct since making the orders was so inconsistent with the operation of the Orders that he must be taken to have consented to them being set aside. The Court proceeded to make new Orders.

## GOVERNMENT TO FUND RESEARCH INTO ICL'S

The effectiveness of Independent Children's Lawyers (ICL's) will be the subject of new research to be conducted by the Australian Institute of Family Studies (AIFS).

The Federal Attorney-General recently announced the project, stating that an aim of the research was to provide an understanding of how ICL's can best achieve positive outcomes for children.

The AIFS will ask families and children about their experiences with ICL's, as well as considering views of the Courts and Legal Aid.

Statistics show that in 2009 ICL's were being ordered in 1/3<sup>rd</sup> of family law cases, compared to 1/5<sup>th</sup> in 2006.

The government has allocated \$500,000 to the project, which should be finished in early 2013.

## DATE CLAIMER – RELATIONSHIP COUNSELLORS!

Relationship Counsellors – please note your diaries –  
**6:30pm Monday, 3 September 2012, Broncos Leagues Club, Red Hill.**

Following the success of our family violence seminar, we will be holding a once only seminar on the new domestic violence legislation, exclusively for relationship counsellors. More info coming soon!

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